



Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

**SYSTEMS AND PLAN
 INTEGRATOR AND
 DEVELOPMENT CORPORATION,**
 represented by its President, **ENGR.
 JULIETA CUNANAN,**
 Petitioner,

G.R. No. 217121

Present:

VELASCO, JR., J.,
Chairperson,
PERALTA,
PEREZ,
REYES, and
JARDELEZA, JJ.

- versus -

**MUNICIPAL GOVERNMENT OF
 MURCIA,**
 Respondent.

Promulgated:

March 16, 2016

x-----*[Signature]*-----x

RESOLUTION

REYES, J.:

The instant petition for review on *certiorari*¹ assails the Resolutions dated May 30, 2014² and February 23, 2015³ of the Court of Appeals (CA) in CA-G.R. SP No. 133398.

Facts

In August of 2010, petitioner Systems and Plan Integrator and Development Corporation (SPIDC) engaged the services of Kapunan Lotilla Garcia and Castillo Law Offices (the law office) to pursue a civil

¹ *Rollo*, pp. 9-19.

² Penned by Associate Justice Stephen C. Cruz, with Associate Justices Magdangal M. De Leon and Eduardo B. Peralta, Jr. concurring; *id.* at 20-22.

³ *Id.* at 25-26.

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collection case and an administrative case against the Municipal Government of Murcia (respondent).⁴ Per agreement, SPIDC shall pay the law office acceptance, contingency and deposit fees.⁵ Official receipts⁶ issued by the law office, dated February 4, 2011 and February 17, 2011, indicated SPIDC's payment of Php 50,000.00 and Php 30,000.00, respectively.

Thereafter, the law office filed in behalf of SPIDC and against the respondent a collection case before the Regional Trial Court (RTC) of Quezon City, which was docketed as Civil Case No. Q-11-68595, and raffled to Branch 220. On January 4, 2011, SPIDC paid filing fees⁷ in the amounts of Php 185,146.00 and Php 277,594.00.

On August 30, 2012, SPIDC received a copy of the RTC Order, dated July 23, 2012, which dismissed the case against the respondent for failure to prosecute. The dismissal was precipitated by the law office's non-appearance before the RTC to examine the case records pursuant to the order issued on January 12, 2012. SPIDC claimed that a certain "Atty. Garcia" from the law office manifested that a motion for reconsideration shall be filed to assail the RTC's dismissal of the collection case.⁸

On September 21, 2012, SPIDC instead received a copy of the law office's motion to approve withdrawal as counsel for non-payment of service fees filed before the RTC.⁹ The RTC granted the law office's motion through the Order issued on October 19, 2012.¹⁰

SPIDC claimed that upon inquiry addressed to the law office, a certain "Atty. Castillo" explained that fees paid for services rendered in the collection case against the respondent were not recorded properly and the lawyers assigned thereto had resigned. Further, SPIDC had to wait for the law office to reconcile its records.¹¹

⁴ Please *see* the document denominated as "Engagement for Legal Services" dated August 27, 2010, *id.* at 29-30.

⁵ *Id.*

⁶ *Id.* at 32.

⁷ *Id.* at 33.

⁸ *Id.* at 11, 13.

⁹ *Id.* at 12.

¹⁰ *Id.* at 13.

¹¹ *Id.* at 12-13.

Meanwhile, SPIDC engaged the services of Atty. Arles B. Mirandilla (Atty. Mirandilla),¹² who filed a motion for reconsideration to assail the dismissal of the collection case. Through the Order¹³ issued on October 16, 2013, the RTC denied SPIDC's motion for having been filed out of time.

In the herein challenged resolutions, the CA dismissed SPIDC's petition for *certiorari* filed under Rule 65 of the Rules of Court for being a wrong mode of appeal. The CA ruled that the dismissal of a case for failure to prosecute is a final order and operates as a judgment on the merits, appealable under Rule 41 and not Rule 65 of the Rules of Court.¹⁴

Issues

SPIDC is now before this Court raising the issues of whether or not (1) the dismissal of the case by the RTC violated SPIDC's substantive rights, and (2) the alleged violation of substantive rights should be considered as grave abuse of discretion amounting to lack or excess of jurisdiction.¹⁵

SPIDC avers that even if there was indeed inadequacy on the part of the law office in prosecuting the case against the respondent, the RTC should have exercised liberality lest there be a deprivation of substantive rights.¹⁶

In its Comment,¹⁷ the respondent asserts that SPIDC has failed to present legal arguments against the validity of the CA Resolutions dated May 30, 2014 and February 23, 2015. Besides, SPIDC had erroneously filed before the CA a petition for *certiorari* under Rule 65 of the Rules of Court, instead of an ordinary appeal under Rule 41 thereof. Hence, by reason of SPIDC's inefficacious appeal before the CA, the RTC Order dated July 23, 2012 dismissing the complaint had attained a state of finality. Further, SPIDC is bound by the acts of its counsel. Granting the instant petition would be violative of the principles of finality of judgments and stability of judicial doctrines.

¹² Id. at 13, 16.

¹³ Issued by Judge Jose G. Paneda; id. at 52-57.

¹⁴ Id. at 21-22.

¹⁵ Id. at 10.

¹⁶ Id. at 13.

¹⁷ Id. at 42-51.

Ruling of the Court

There is no merit in the instant petition.

An erroneous mode of appeal was filed before the CA.

In *Young v. Spouses Sy*,¹⁸ the Court is emphatic that:

[T]he RTC orders dismissing the case for failure to prosecute are final orders, because such orders of dismissal operate as a judgment on the merits. This principle is now an express provision in Section 3, Rule 17 of the Rules of Court, to wit:

Section 3. *Dismissal due to fault of plaintiff.* — If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his evidence in chief on the complaint, or to prosecute his action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his counterclaim in the same or in a separate action. ***This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court.*** x x x

It is firmly established, and with very few exceptions, that the remedy against such final order is appeal and not *certiorari*.

The general rule is that a writ of *certiorari* will not issue where the remedy of appeal is available to the aggrieved party. x x x.¹⁹ (Citations omitted, italics and emphasis in the original and underscoring ours)

Further, Section 5(f), Rule 56 of the Rules of Court clearly provides that an appeal may be dismissed *motu proprio* or upon motion if a party resorts to an erroneous mode thereof.

Prescinding from the above, the CA cannot be faulted for dismissing SPIDC's petition for *certiorari* on account of its procedural flaw. Besides, even if the Court were to exercise leniency, consider SPIDC's motion for reconsideration belatedly filed before the RTC, and let the petition for *certiorari* be treated as an ordinary appeal by the CA, it would still be

¹⁸ 534 Phil. 246 (2006).

¹⁹ Id. at 265-266; Please also see *Chingkoe v. Republic*, G.R. No. 183608, July 31, 2013, 702 SCRA 677, 689; *Badillo, et al. v. CA, et al.*, 578 Phil. 404, 418 (2008).

susceptible to dismissal.

As a general rule, the counsel's negligence binds the client, and no compelling reason exists for the Court to exempt the petitioner from its application.

In *Philhouse Development Corporation v. Consolidated Orix Leasing and Finance Corporation*,²⁰ the Court declared that:

The dereliction of duty by counsel affects the client. While, exceptionally, the client may be excused from the failure of counsel, the factual and case settings in this instance, however, would not warrant such an exception; indeed, petitioners themselves may not be said to be entirely faultless.

The complaint for a sum of money and damages was instituted several years back. Petitioners were thrice declared in default. x x x After an adverse decision by the trial court, petitioners' counsel failed to file a timely notice of appeal. The petition for relief, subsequently filed, was correctly dismissed by the trial court for lack of merit. The appeal to the [CA] was itself dismissed for failure to file an appellant's brief. Petitioners could not have failed to notice the succession of blunders committed by their counsel, yet they took no precautionary measures such as by forthwith seeking the help of another counsel. No prudent party would leave the fate of his case completely to his lawyer. It should be the duty of the client to be in touch with his counsel so as to be constantly posted about the case.

Petitioners have not been denied their day in court. It is basic that as long as a party is given the opportunity to defend his interests in due course, he would have no reason to complain, for it is this opportunity to be heard that makes up the essence of due process. [W]here opportunity to be heard, either through oral argument or through pleadings, is accorded, there can be no denial of procedural due process. If it were otherwise, "all that a defeated party would have to do to salvage his case," observed the Court in one case, would be to "claim neglect or mistake on the part of his counsel as a ground for reversing the adverse judgment," and there would then be "no end to litigation x x x as every shortcoming of counsel could be the subject of challenge by his client through another counsel who, if he (were) also found wanting, (could) x x x be disowned by the same client through another counsel, and so on *ad infinitum*, thereby rendering court proceedings indefinite x x x."²¹ (Citations omitted, italics in the original and underscoring ours)

²⁰ 408 Phil. 392 (2001).

²¹ Id. at 397-398.

In the case at bar, the controversy arose from SPIDC's complaint for collection of a sum of money, which was dismissed by the RTC on July 23, 2012 due to failure to prosecute. A review of the incidents leading to the complaint's dismissal by the RTC and SPIDC's filing of the petition for *certiorari* before the CA is therefore essential.

On January 28, 2012, the RTC issued an Order directing SPIDC to show cause why the latter's complaint should not be dismissed for failure to prosecute. On March 6, 2012, the RTC received SPIDC's compliance through which the law office explained that it was not furnished with notices regarding the proceedings. The law office undertook to examine the records of the case for it to proceed. However, despite the lapse of several months, the law office still failed to examine the records. Consequently, the RTC issued the Order dated July 23, 2012 dismissing the case. A copy of the said order was likewise sent to and was received by SPIDC itself on August 29, 2012. On November 13, 2012, SPIDC's new counsel, Atty. Mirandilla, belatedly filed before the RTC a Motion for Reconsideration against the Order dated July 23, 2012. The RTC denied the motion through the Order issued on October 16, 2013.²²

It appears from the records that SPIDC's complaint was dismissed on account of the law office's negligence.²³ *Philhouse Development*²⁴ instructs that as a general rule, the dereliction of duty by the counsel affects the client. As an exception thereto, the client may be excused from the counsel's failure only if the former can prove to have been entirely faultless.²⁵

In the instant petition, the law office's lackadaisical efforts in prosecuting the complaint should have prompted SPIDC to take the precautionary measures of being constantly updated about the proceedings and promptly engaging the services of another lawyer. Instead, SPIDC left the fate of its case to the hands of the law office. SPIDC was not entirely blameless; hence, the Court finds no compelling reason to exempt the instant case from the application of the rule regarding the binding effect upon the client of counsel's negligence.

²² *Rollo*, pp. 54-57.

²³ *Id.* at 56.

²⁴ *Supra* note 20.

²⁵ *Id.* at 397.

The case is dismissed *sans* prejudice.

The Court, however, notes that SPIDC's complaint for collection of a sum of money was lodged against the respondent relative to goods or services, which were already delivered or rendered. The Court thus finds it more in accord with justice and equity that the dismissal of the case be without prejudice.

Proofs are inconclusive to determine whether or not the law office had indeed been negligent.


Anent the law office's negligent acts or omissions, the records are insufficient for the Court to be able to conclusively determine the truth of SPIDC's allegations.


IN VIEW OF THE FOREGOING, the instant petition is **DENIED**. The Order dated July 23, 2012 of the Regional Trial Court of Quezon City, Branch 220, in Civil Case No. Q-11-68595 is however **MODIFIED** to the extent that the dismissal of the complaint is hereby declared to be without prejudice. Kapunan Lotilla Garcia and Castillo Law Offices is directed to **SHOW CAUSE** within ten (10) days from notice why it should not be disciplinarily dealt with for acts and omissions ascribed to it by its client, Systems and Plan Integrator and Development Corporation.

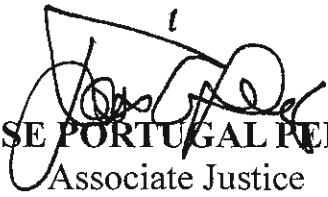
SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
Chief Justice